



January 25, 2002

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## HOUSE BILL No. 1030

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DIGEST OF HB 1030 (Updated January 23, 2002 12:17 PM - DI 87)

**Citations Affected:** IC 4-15; IC 9-24; IC 29-2; noncode.

**Synopsis:** Leave for organ or bone marrow donation. Allows a state employee of the executive branch to take a paid leave of absence for the purpose of being an organ donor or bone marrow donor. Provides that an anatomical gift is made if a person acknowledges on the application form for a driver's license or identification card that the person is making an anatomical gift.

**Effective:** July 1, 2002.

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### Grubb, Dillon, Welch, Ulmer

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January 8, 2002, read first time and referred to Committee on Ways and Means.  
January 9, 2002, reassigned to Committee on Public Policy, Ethics and Veterans Affairs.  
January 24, 2002, amended, reported — Do Pass.

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HB 1030—LS 6467/DI 87+



January 25, 2002

Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

## HOUSE BILL No. 1030

A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 4-15-16 IS ADDED TO THE INDIANA CODE AS  
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2002]:

4 **Chapter 16. Leave for Bone Marrow or Organ Donation**

5 **Sec. 1. This chapter applies to an employee of a state agency,**  
6 **including an employee who is a party to:**

7 (1) a collective bargaining agreement entered into after June  
8 30, 2002, unless otherwise provided in the collective  
9 bargaining agreement; or

10 (2) an employment contract with a state agency entered into  
11 after June 30, 2002, unless otherwise provided in the  
12 employment contract.

13 **Sec. 2. This chapter does not apply to an inmate placed in the**  
14 **unclassified service under IC 4-15-2-7.**

15 **Sec. 3. As used in this chapter, "bone marrow" means the soft**  
16 **material that fills human bone cavities.**

17 **Sec. 4. As used in this chapter, "employee" means a person who**



is employed full time by a state agency.

Sec. 5. As used in this chapter, "organ" means a lung, a kidney, or another organ that requires the continuous circulation of blood to remain useful for purposes of transplantation.

Sec. 6. As used in this chapter, "state agency" means an authority, a board, a branch, a commission, a committee, a department, a division, or another instrumentality of state government. The term does not include the following:

- (1) A state educational institution (as defined in IC 20-12-0.5-1).
- (2) A state elected official's office.
- (3) The legislative and judicial branches of state government.
- (4) The state police department.

Sec. 7. If an employee of a state agency:

- (1) requests a leave of absence from the employee's agency so that the employee may serve as a bone marrow donor; and
- (2) provides the employee's agency with written verification by a physician that the employee is to serve as a bone marrow donor;

the state agency shall grant the employee a leave of absence of not more than five (5) work days, as determined by the attending physician, during which the employee may serve as a bone marrow donor.

Sec. 8. If an employee of a state agency:

- (1) requests a leave of absence from the employee's agency so that the employee may serve as a human organ donor; and
- (2) provides the employee's agency with written verification by a physician that the employee is to serve as a human organ donor;

the state agency shall grant the employee a leave of absence of not more than thirty (30) work days, as determined by the attending physician, during which the employee may serve as a human organ donor.

Sec. 9. (a) An employee who is granted a leave of absence under this chapter is entitled to receive the employee's regular salary without interruption during the leave of absence.

(b) A leave of absence granted to an employee under this chapter is in addition to vacation days, sick days, personal days, and compensatory time that the employee accrues.

(c) An employee's service shall be considered uninterrupted by a leave of absence under this chapter for purposes of determining the following:



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- (1) Seniority.
- (2) Salary or salary advancement.
- (3) Performance awards.
- (4) The receipt of a benefit that may be affected by a leave of absence.

**Sec. 10. A state agency may not retaliate against an employee for requesting or obtaining a leave of absence under this chapter.**

SECTION 2. IC 9-24-17-1, AS AMENDED BY P.L.29-2000, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 1. **A The application form for a driver's license and an identification card issued under IC 9-24-16 must contain a form by which the allow an applicant may make to acknowledge the making of an anatomical gift under IC 29-2-16.**

SECTION 3. IC 9-24-17-8, AS AMENDED BY P.L.29-2000, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 8. (a) Each anatomical gift made under this chapter must be ~~signed~~ **made** by the donor **by acknowledging the making of the anatomical gift by signing the application form for the driver's license or identification card under section 1 of this chapter.** If the donor cannot sign, the ~~document~~ **application form** may be signed for the donor ~~(1)~~ at the donor's direction and in the donor's presence. ~~and (2) in the presence of two (2) witnesses who must sign the document in the donor's and each other's presence.~~

(b) The card must state that the document was signed in accordance with this section:

~~(c)~~ **(b)** The bureau shall place an identifying symbol on the face of the license or identification card to indicate that ~~an executed document acknowledging the person to whom the license or identification card is issued has acknowledged~~ the making of an anatomical gift is located on the back of the license or identification card: **on the application form for the license or identification card as set forth in subsection (a).**

~~(d)~~ If a document of gift is attached to or imprinted on a donor's motor vehicle driver's license or identification card issued under IC 9-24-16, the document of gift must comply with this section: **(c)** Revocation, suspension, or cancellation of the license or expiration of the license or identification card does not invalidate the anatomical gift.

**(d) An anatomical gift is valid if the person acknowledges the making of the anatomical gift by signing the application form for a driver's license or identification card under subsection (a). No other acknowledgment is required to make an anatomical gift.**

SECTION 4. IC 29-2-16-4, AS AMENDED BY P.L.29-2000,



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SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 4. (a) A gift of all or part of the body under section 2(a) of this chapter may be made by will. The gift becomes effective upon the death of the testator without waiting for probate. If the will is not probated, or if it is declared invalid for testamentary purposes, the gift, to the extent that it has been acted upon in good faith, is nevertheless valid and effective.

(b) A gift of all or part of the body under section 2(a) of this chapter may also be made by document other than a will. The gift becomes effective upon the death of the donor. The document, which may be a card designed to be carried on the person, must be signed by the donor. **Except as provided in IC 9-24-17-8**, if the donor cannot sign, the document may be signed by another for the donor:

(1) at the donor's direction and in the donor's presence; and

(2) in the presence of two (2) witnesses who must sign the document in the donor's presence and each other's presence.

The document must state that it has been signed in accordance with this subsection. Delivery of the document of gift during the donor's lifetime is not necessary to make the gift valid.

(c) The gift may be made to a specified donee or without specifying a donee. If the latter, the gift may be accepted by the attending physician as donee upon or following death. If the gift is made to a specified donee who is not available at the time and place of death, the attending physician upon or following death, in the absence of any expressed indication that the donor desired otherwise, may accept the gift as donee. The gift of an eye or part of an eye made without specifying a donee, or made to a donee who is not available at the time and place of death and without an expression of a contrary desire, may be accepted by the attending physician as donee on behalf of an eye bank in Indiana. The physician who becomes a donee under this subsection shall not participate in the procedures for removing or transplanting a part.

(d) Notwithstanding section 7(b) of this chapter, the donor may designate in his will, card, or other document of gift the surgeon or physician to carry out the appropriate procedures. In the absence of a designation or if the designee is not available, the donee or other person authorized to accept the gift may employ or authorize any surgeon or physician for the purpose.

(e) After proper certification of death by a physician and compliance with the intent of the gift as determined by reference to this chapter:

(1) with respect to a gift of an eye or part of an eye, including the cornea or corneal tissue, the eye or part of the eye may be

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removed for the gift by:

(A) a physician licensed under IC 25-22.5; or

(B) an individual who is registered with the medical licensing board as a corneal excision technician; or

(2) with respect to a gift of a whole eye, the eye may be removed for the gift by:

(A) a physician licensed under IC 25-22.5;

(B) an individual who is registered with the medical licensing board as a corneal excision technician;

(C) an embalmer or a funeral director who, before September 1, 1983, completed a course in eye enucleation and was certified as competent to enucleate eyes by an accredited school of medicine; or

(D) an individual who is registered with the medical licensing board as an eye enucleator.

(f) A person who, in good faith reliance upon a will, card, or other document of gift, and without actual notice of the amendment, revocation, or invalidity of the will, card, or document:

(1) takes possession of a decedent's body or performs or causes to be performed surgical operations upon a decedent's body; or

(2) removes or causes to be removed organs, tissues, or other parts from a decedent's body;

is not liable in damages in any civil action brought against the donor for that act.

(g) Any gift by a person designated in section 2(b) of this chapter shall be made by a document signed by the donor or made by the donor's telegraphic, recorded telephonic, or other recorded message.

(h) An individual may refuse to make a gift under this chapter or IC 9-24-17 of all or part of the individual's body by any of the following methods:

(1) A writing signed in the same manner as a document under subsection (b).

~~(2) A written statement attached to or imprinted on a person's anatomical gift card received from the bureau of motor vehicles under IC 9-24-17 and signed in the same manner as a gift under IC 9-24-17-8.~~

~~(3)~~ (2) Any writing used to identify the individual as refusing to make an anatomical gift under this chapter.

During a terminal illness or injury, the refusal may be an oral statement or other form of communication.

(i) In the absence of a contrary indication by an individual, a gift under this chapter of a part of the individual's body is neither a refusal

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1 to give other parts of the body nor a limitation to give only part of the  
2 body under this chapter or IC 9-24-17.

3 (j) In the absence of a contrary indication by an individual, a  
4 revocation or an amendment under section 6 of this chapter is not a  
5 refusal to make another gift under this chapter. If an individual intends  
6 a revocation to be a refusal to make a gift under this chapter, the  
7 individual must make the refusal in accordance with subsection (h).

8 (k) A gift under this chapter or IC 9-24-17 that is not revoked before  
9 the donor dies is irrevocable.

10 (l) ~~If a document of gift is attached to or imprinted on a donor's~~  
11 ~~motor vehicle driver's license or identification card issued under~~  
12 ~~IC 9-24-16, the document of gift must comply with this section:~~  
13 ~~Revocation, suspension, or cancellation of the license or expiration of~~  
14 ~~the license or identification card does not invalidate the anatomical gift.~~

15 **(m) An anatomical gift is valid if the person acknowledges the**  
16 **making of the anatomical gift by signing an application form for a**  
17 **driver's license or an identification card under IC 9-24-17-8. No**  
18 **other acknowledgment is required to make an anatomical gift.**

19 SECTION 5. [EFFECTIVE JULY 1, 2002] (a) IC 9-24-17-1,  
20 IC 9-24-17-8, and IC 29-2-16-4, all as amended by this act, do not  
21 affect the validity of an anatomical gift made before July 1, 2002.

22 (b) This SECTION expires July 1, 2007.

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy, Ethics and Veterans Affairs, to which was referred House Bill 1030, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 20, after "absence of" insert "**not more than**".

Page 2, line 21, after "days" insert "**, as determined by the attending physician,**".

Page 2, line 29, after "absence of" insert "**not more than**".

Page 2, line 30, after "days" insert "**, as determined by the attending physician,**".

Page 3, after line 5, begin a new paragraph and insert the following:

"SECTION 2. IC 9-24-17-1, AS AMENDED BY P.L.29-2000, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 1. **A The application form for a driver's license and an identification card issued under IC 9-24-16 must contain a form by which the allow an applicant may make to acknowledge the making of an anatomical gift under IC 29-2-16.**

SECTION 3. IC 9-24-17-8, AS AMENDED BY P.L.29-2000, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 8. (a) Each anatomical gift made under this chapter must be ~~signed~~ **made** by the donor **by acknowledging the making of the anatomical gift by signing the application form for the driver's license or identification card under section 1 of this chapter.** If the donor cannot sign, the ~~document~~ **application form** may be signed for the donor ~~(1)~~ at the donor's direction and in the donor's presence. ~~and (2) in the presence of two (2) witnesses who must sign the document in the donor's and each other's presence.~~

~~(b) The card must state that the document was signed in accordance with this section.~~

~~(c) (b)~~ The bureau shall place an identifying symbol on the face of the license or identification card to indicate that ~~an executed document acknowledging the person to whom the license or identification card is issued has acknowledged~~ the making of an anatomical gift ~~is located on the back of the license or identification card.~~ **on the application form for the license or identification card as set forth in subsection (a).**

~~(d) If a document of gift is attached to or imprinted on a donor's motor vehicle driver's license or identification card issued under IC 9-24-16, the document of gift must comply with this section: (c) Revocation, suspension, or cancellation of the license or expiration of~~



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the license or identification card does not invalidate the anatomical gift.

**(d) An anatomical gift is valid if the person acknowledges the making of the anatomical gift by signing the application form for a driver's license or identification card under subsection (a). No other acknowledgment is required to make an anatomical gift.**

SECTION 4. IC 29-2-16-4, AS AMENDED BY P.L.29-2000, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 4. (a) A gift of all or part of the body under section 2(a) of this chapter may be made by will. The gift becomes effective upon the death of the testator without waiting for probate. If the will is not probated, or if it is declared invalid for testamentary purposes, the gift, to the extent that it has been acted upon in good faith, is nevertheless valid and effective.

(b) A gift of all or part of the body under section 2(a) of this chapter may also be made by document other than a will. The gift becomes effective upon the death of the donor. The document, which may be a card designed to be carried on the person, must be signed by the donor. **Except as provided in IC 9-24-17-8**, if the donor cannot sign, the document may be signed by another for the donor:

- (1) at the donor's direction and in the donor's presence; and
- (2) in the presence of two (2) witnesses who must sign the document in the donor's presence and each other's presence.

The document must state that it has been signed in accordance with this subsection. Delivery of the document of gift during the donor's lifetime is not necessary to make the gift valid.

(c) The gift may be made to a specified donee or without specifying a donee. If the latter, the gift may be accepted by the attending physician as donee upon or following death. If the gift is made to a specified donee who is not available at the time and place of death, the attending physician upon or following death, in the absence of any expressed indication that the donor desired otherwise, may accept the gift as donee. The gift of an eye or part of an eye made without specifying a donee, or made to a donee who is not available at the time and place of death and without an expression of a contrary desire, may be accepted by the attending physician as donee on behalf of an eye bank in Indiana. The physician who becomes a donee under this subsection shall not participate in the procedures for removing or transplanting a part.

(d) Notwithstanding section 7(b) of this chapter, the donor may designate in his will, card, or other document of gift the surgeon or physician to carry out the appropriate procedures. In the absence of a designation or if the designee is not available, the donee or other

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person authorized to accept the gift may employ or authorize any surgeon or physician for the purpose.

(e) After proper certification of death by a physician and compliance with the intent of the gift as determined by reference to this chapter:

(1) with respect to a gift of an eye or part of an eye, including the cornea or corneal tissue, the eye or part of the eye may be removed for the gift by:

(A) a physician licensed under IC 25-22.5; or

(B) an individual who is registered with the medical licensing board as a corneal excision technician; or

(2) with respect to a gift of a whole eye, the eye may be removed for the gift by:

(A) a physician licensed under IC 25-22.5;

(B) an individual who is registered with the medical licensing board as a corneal excision technician;

(C) an embalmer or a funeral director who, before September 1, 1983, completed a course in eye enucleation and was certified as competent to enucleate eyes by an accredited school of medicine; or

(D) an individual who is registered with the medical licensing board as an eye enucleator.

(f) A person who, in good faith reliance upon a will, card, or other document of gift, and without actual notice of the amendment, revocation, or invalidity of the will, card, or document:

(1) takes possession of a decedent's body or performs or causes to be performed surgical operations upon a decedent's body; or

(2) removes or causes to be removed organs, tissues, or other parts from a decedent's body;

is not liable in damages in any civil action brought against the donor for that act.

(g) Any gift by a person designated in section 2(b) of this chapter shall be made by a document signed by the donor or made by the donor's telegraphic, recorded telephonic, or other recorded message.

(h) An individual may refuse to make a gift under this chapter or IC 9-24-17 of all or part of the individual's body by any of the following methods:

(1) A writing signed in the same manner as a document under subsection (b).

(2) ~~A written statement attached to or imprinted on a person's anatomical gift card received from the bureau of motor vehicles under IC 9-24-17 and signed in the same manner as a gift under IC 9-24-17-8.~~



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~~(3)~~ **(2)** Any writing used to identify the individual as refusing to make an anatomical gift under this chapter.

During a terminal illness or injury, the refusal may be an oral statement or other form of communication.

(i) In the absence of a contrary indication by an individual, a gift under this chapter of a part of the individual's body is neither a refusal to give other parts of the body nor a limitation to give only part of the body under this chapter or IC 9-24-17.

(j) In the absence of a contrary indication by an individual, a revocation or an amendment under section 6 of this chapter is not a refusal to make another gift under this chapter. If an individual intends a revocation to be a refusal to make a gift under this chapter, the individual must make the refusal in accordance with subsection (h).

(k) A gift under this chapter or IC 9-24-17 that is not revoked before the donor dies is irrevocable.

~~(l) If a document of gift is attached to or imprinted on a donor's motor vehicle driver's license or identification card issued under IC 9-24-16, the document of gift must comply with this section. Revocation, suspension, or cancellation of the license or expiration of the license or identification card does not invalidate the anatomical gift.~~

**(m) An anatomical gift is valid if the person acknowledges the making of the anatomical gift by signing an application form for a driver's license or an identification card under IC 9-24-17-8. No other acknowledgment is required to make an anatomical gift.**

**SECTION 5. [EFFECTIVE JULY 1, 2002] (a) IC 9-24-17-1, IC 9-24-17-8, and IC 29-2-16-4, all as amended by this act, do not affect the validity of an anatomical gift made before July 1, 2002.**

**(b) This SECTION expires July 1, 2007."**

and when so amended that said bill do pass.

(Reference is to HB 1030 as introduced.)

KUZMAN, Chair

Committee Vote: yeas 13, nays 0.

